

REMARKS

Claims 42, 61, and 64 are canceled. Claims 18-25, 29-30, 41, 43, 48-49, and 62 are amended to make explicit what Applicants believe previously has been implicit, solely for the purpose of clarifying the claimed subject matter and not to overcome any particular prior art reference. Therefore, Claims 2-4, 6, 7, 18-27, 29, 30, 41, 43-46, 48, 49, 60, and 62 are pending.

I. ISSUES NOT RELATING TO PRIOR ART

Claims 18 and 30 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly indefinite. At page 3, the Office Action also identified informalities in claims 19 and 20. Claims 18, 29, 20, and 30 are amended herein to address informalities. Applicant believes that all issues identified in the Office Action are addressed. Reconsideration is respectfully requested.

II. ISSUES RELATING TO PRIOR ART

Claims 3, 6-7, 18-24, 26, 29-30, 41-43, 45, 48-49, 60-62, and 64 stand rejected under 35 U.S.C. 103(a) as unpatentable over Mishra in view of Peters. The rejections are respectfully traversed.

The claimed subject matter is summarized in Applicant's prior Appeal Brief, and this reply assumes familiarity with that summary.

To establish a *prima facie* case of obviousness under 35 U.S.C. §103(a), the references cited and relied upon must teach or suggest all the claim limitations. In addition, a sufficient factual basis to support the obviousness rejection must be proffered. *In re Freed*, 165 USPQ 570 (CCPA 1970); *In re Warner*, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 148 USPQ 721 (CCPA 1966). The Office Action fails to satisfy these criteria for the rejections of the independent claims, including Claims 21-24. (The following discussion focuses on Claim 21; the same arguments apply to all independent claims.)

A. Mishra and Peters Do Not Generate a Subject List in Response To An Event Subscription.

The Office Action contends that Mishra, which provides a database system, shows creating and storing the specifically claimed mapping, receiving a subscribe request, and looking up in the mapping. The Office Action also contends that Peters shows a subject list and sending information to the event bus. However, a concept fundamental to all the independent claims is that in response to receiving a router's request to subscribe to one event, the router is automatically subscribed to other events associated with a group that contains the router. Mishra and Peters, alone or taken in the combination proposed in the Office Action, lack any teaching or suggestion of the complete automatic subscription process provided in the claims.

The rationale of the Office Action requires overlooking features of the claims, which is impermissible. For example, at page 4, the Office Action notes that Mishra does not teach "receiving a subject list **in response thereto**, wherein the subject list identifies all subjects to which the router should subscribe." The Office Action relies on Peters to show a subject list, but ignores the claimed feature of responsiveness—that the subject list is automatically generated after the first event subscription request is received. Mishra and Peters lack the **responsiveness** provided in the claims, and therefore cannot suggest the complete claimed combination.

As seen in Peters FIG. 4, for example, the subscriber list of Peters is not generated in response to anything—it simply appears. Mishra describes agents entering subscriptions on behalf of clients to receive notification. But when a notification event occurs, the notification event does not induce any automatic subscription of client to other events.

The Office Action rationalizes a combination of Mishra and Peters on "reduced burden on the network device as the subscription list is centrally stored on a remote network device." This rationale is flawed, however, because central storage is not a goal or point of the claims.

Instead, the claims provide an automatic subscription approach in which a requesting router automatically is subscribed to other events that are known to interest the router or its group. Neither Mishra nor Peters provide such a motivation to combine one with the other.

The Office Action further admits that Mishra does not teach a router, but contends that treating a router as a client device or network device subscribing to events would have been obvious. However, the Office Action provides no supporting rationale for this conclusion. Therefore, the Office Action fails to present a *prima face* case under 103.

While the Office Action cites a paragraph of Amberden for each step and limitation of Claim 21, the citations are manifestly incorrect. The paragraphs of Amberden cited in the Office Action do not address the same problem domain. Amberden is not even from the same technical field, network management.

Applicant previously argued that the paragraphs of Amberden cited in the Office Action do not use concrete, specific terms of the claim such as “router,” “event bus,” “logical group of which a router is a member,” and “subject list.” The Office Action *agrees*—admitting that “Amberden does not explicitly mention the term ‘router’”—but then contends that the terms of the claim are simply unimportant, because “the type of device would have been a matter of design choice, it would achieves similar means to solve the same problem of grouping devices and identification of events ...” (Office Action, page 3, paragraph 6.)

The Applicant is aware that the Office adheres to a policy of interpreting claim terms as broadly as is reasonable. However, this policy and the overwhelming body of case law do not permit the Office to ignore express terms of a claim, or to re-cast the claim in terms selected by the Office and then examine the re-cast claim.

When the term “router” appears in a claim, the Office may not treat the term as equivalent to “Bessemer converter,” “photocopier,” or whatever else happens to appear in a reference; the references must show or suggest what is claimed. Further, a reference is not made of clay that can be stretched and molded into whatever the Office wants the reference to say, in the guise of “interpreting” the reference and claims in “broad” terms.

The rejection of Claim 21 founded on Amberden, as stated in the present Office Action, glosses over specific terms recited in the claim and relies on an over-reaching reading of Amberden that is unfair to the Applicant and that mocks the requirements of the statute, rules and case law.

B. Mishra and Peters Fail to Provide Other Features of the Claims

The Office Action contends that Mishra shows “creating and storing a mapping that associates a plurality of routers with the logical group and that associates the logical group with one or more events that can pass over an event bus to which the router communicates” at col. 5, lines 20-32. This is incorrect. The claimed mapping is a two-way association: routers are associated with a group, and a group is associated with events. In Mishra, the names schema 330 only “stores the delivery information that specifies to which client(s) ... the notification is to be delivered and how the notification is to be sent.” The names schema of Mishra **does not associate a group (or agent) with routers, clients, or events**. In Mishra, an agent may subscribe client(s) to events, but information identifying only the clients, not the agent, is stored in the names schema 330. Therefore, Mishra fails to provide a claimed feature, and a combination of Mishra and Peters cannot provide the complete claimed combination.

The responsive argument of the Office Action at pp. 6, paragraph 21, pertaining to “logical groups,” is incorrect and immaterial. The argument is incorrect with respect to Claim

21, because the claim recites routers and not network computers. The network computers of Amberden cannot be considered “essentially network devices,” as the Office Action contends, in the absence of some suggestion for that interpretation.

The Office Action contends that Mishra shows “receiving a subscribe request from the network device” **through an agent**. But previously, the Office Action contends that the agent of Mishra is equivalent to the claimed group. Contending that Mishra’s agent is both a group and a router is inconsistent. A skilled artisan would not interpret a reference inconsistently as asserted.

The Office Action cannot reasonably contend that any of the foregoing specific claimed steps are found in the cited parts of Mishra, Peters, or anywhere else. For at least all of the foregoing reasons, a §103 obviousness rejection based on Mishra and Peters is unsupported. Reconsideration and allowance of the independent claims are respectfully requested.

C. The Office Action Relies on Impermissible Hindsight

Taken in its entirety, the Office Action requires accepting an unreasonably elaborate series of propositions. The Office Action asks the reader to accept that Mishra, describing an agent in a database system for distributing database notifications resulting from database triggers, applies to automatic subscription of routers to event bus events as claimed; that Peters, relating to magazine subscription lists, nevertheless can be combined with a database system to provide the automatic router event subscription system that is claimed; that Mishra and Peters, while never describing automatic, responsive subscription, would be so interpreted by one of skill in the art; that a database system is close enough to a router system; and so forth.

Taken alone, one of these propositions might be supportable. But collectively, these propositions ask the reader to accept that two references having nothing to do with the problem that Applicant describes, neither of which show the solution specifically claimed, are sufficient

to suggest the specific solution to a skilled artisan. The totality of the propositions is not credible as a rationale to combine and represents stitching together unrelated references to arrive at something similar to the claims.

As stated by the Court of Appeals for the Federal Circuit, “[t]o imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of hindsight syndrome where that which only the inventor taught is used against its teacher.” *W. L. Gore & Assocs v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983).

The Federal Circuit has recently reiterated that “the tests of whether to combine references need to be applied rigorously.” *McGinley v. Franklin Sports Inc.* 262 F.3d 1339, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001). Broad, conclusory statements regarding the teaching of multiple references, standing alone, are not “evidence” (*McElmurray v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993)), and a general relationship between fields of the prior art references is insufficient to suggest the motivation to combine such references (see *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999)).

Moreover, the Office Action statement is conclusory and does not meet the standard for an obviousness rejection under 35 U.S.C. §103(a). The stated goal for a combination of the reference is so general and vague that it cannot rationalize the specific invention that is claimed. It is well-settled that “[i]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious” and that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention” (*In re Fritch*, 972 F.2d

1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992); quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988)).

D. Fukumoto Does Not Support a Rejection of Claims 2, 4, 25, 27, 44, and 46

Claims 2, 4, 25, 27, 44, and 46 stand rejected under 35 U.S.C. 103(a) as unpatentable over Mishra in view of Peters and further in view of Fukumoto. The rejection is respectfully traversed.

Claim 2 recites “sending information comprises subscribing the router to all the events that are in the mapping and associated with the router at an event gateway that is coupled to the event bus.” The Office Action contends that the agent of Mishra corresponds to the claimed event gateway, and that Fukumoto teaches subscribing the network device to all events that are in the mapping. Applicant disagrees.

The claimed event gateway is recited separately from the event bus. Previously, the Office Action contends that the agent of Mishra is equivalent to the claimed group. Contending that Mishra’s agent is both a group and an event gateway is inconsistent. A skilled artisan would not interpret a reference inconsistently as asserted.

Second, Fukumoto does not support the contentions of the Office Action. Fukumoto does not describe events, an event bus, any form of event publication or subscription, a router, or automatic subscription of routers to events. Any interpretation of Fukumoto that alleges events or subscription is unsupported in Fukumoto and is an unreasonable interpretation. Fukumoto only teaches registering client login information with servers so that the clients do not need to do it themselves.

The Office Action rationalizes a combination of Fukumoto with Mishra and Peters on “reduced burden on the network device as the subscription list is centrally stored on a remote

network device.” This rationale is flawed, however, because central storage is not a goal or point of the claims. Instead, the claims provide an automatic subscription approach in which a requesting router automatically is subscribed to other events that are known to interest the router or its group. None of Fukumoto, Mishra and Peters provide a motivation to combine one with the other.

E. The Dependent Claims Are Allowable

Claims 2-4, 6-7, and 18 depend from Claim 21. By virtue of dependency, Claims 2-4, 6-7, and 18 include each any every step, feature and limitation of Claim 21. Because the proposed combination of references, Amberden and “AAPA,” fail to teach, disclose or suggest Claim 21, the references necessarily cannot suggest the subject matter of Claims 2-4, 6-7, and 18. Therefore, Claims 2-4, 6-7, and 18 are allowable for the same reasons set forth above with respect to Claim 21.

Claims 22-27, 41-46, 48-49, 60-62 recite subject matter that corresponds to Claim 21, but in alternative preamble form including computer-readable medium form and apparatus form. Thus, the substantive scope of Claims 22-27, 41-46, 48-49, 60-62 corresponds to Claims 21, 2-4, 6-7, and 18. Accordingly, Claims 22-27, 41-46, 48-49, 60-62 are allowable for the same reasons given above for Claims 21, 2-4, 6-7, and 18.

In addition, each of the dependent claims features one or more steps or limitations that independent renders it patentable. For example, claim 6 recites sending the list to an event gateway that is coupled to the event bus. At page 5, paragraph 8, the Office Action appears to contend that channel 315 of Mishra corresponds to both the event bus and the event gateway. This contention is legally insufficient. The claim recites both an event bus and an event gateway.

The channel 315 cannot be both, and showing one is not "good enough" to establish a *prima facie* rejection. Therefore, the rejection of claim 6 is traversed.

Further, regarding claim 7, the Office Action fails to show that Mishra provides the stored values of the claimed mapping **in the mapping**. The Office Action provides scattered references to different kinds of values, but never establishes that the values **are associated in a mapping**, as claimed. Moreover, certain citations do not establish what the Office Action contends. For example, col. 5, lines 60-67 describe database triggers that can detect events or fire upon the occurrence of an event; however, this passage does not provide that events are **in the mapping**. Col. 6, lines 55-65 describe various transport protocols, but do not describe identifying **applications in the mapping**.

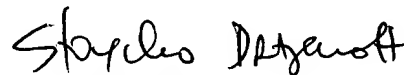
III. CONCLUSION

Based on the foregoing, Applicant respectfully submits that the rejection of Claims 2-4, 6, 7, 18-27, 29, 30, 41, 43-46, 48, 49, 60, and 62 lacks the requisite legal and factual basis. Appellants respectfully request reconsideration.

If any applicable fee is missing or insufficient, the Director is hereby authorized to charge any applicable fee to our Deposit Account No. 50-1302.

Respectfully submitted,

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